UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

CARLA CALOBRISI **Plaintiff,** v. **BOOZ ALLEN HAMILTON INC.** **Defendant.**	)	**Case No. 1:13-cv-00952-ABJ**

MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF PLAINTIFF'S MOTION FOR LEAVE TO FILE SURREPLY

Plaintiff, Carla Calobrisi, requests that the Court accept for filing her Surreply in response to Defendant's Reply Memorandum to Plaintiff's Opposition to Defendant's Motion to Dismiss Counts I, II, III, V and VI and its Motion to Transfer All Remaining Counts [Docket Entry ("DE") # 16]. On reply, Defendant makes new and incorrect arguments to which Ms. Calobrisi should have the opportunity to respond. Moreover, Plaintiff's Surreply would aid the court in addressing Defendant's arguments.

"The Court highly disfavors parties creating new arguments at the reply stage . . . ." *See Public Citizen Health Research Group v. Nat'l Insts. of Health*, 209 F. Supp.2d 37, 43-44 (D.D.C. 2002). "'The reason for this rule of waiver is that a reply brief containing new theories deprives the respondent of an opportunity to brief those new issues.'" *Taitz v. Obama*, 754 F. Supp.2d 57, 62 (D.D.C. 2010) (quoting *Wright v. United States*, 139 F.3d 551, 533 (7th Cir. 1998)). The Court also may ignore Defendant's arguments and facts articulated for the first time in its Reply. *See Taitz*, 754 F. Supp.2d at 61. To the extent the Court would consider any new issues presented in Defendant's

Reply, Plaintiff requests the opportunity to respond to the following:

1. Despite the fact that Plaintiff timely filed her Opposition on July 18, 2013 (*see* DE # 12), Defendant claims that Plaintiff exceeded her deadline and filed it on July 19, 2013 (Def. Reply at 4.) Plaintiff should have the opportunity to respond.

2. Defendant attaches for the first time on Reply the correspondence of June 2013 between Defendant's Counsel and Ms. Calobrisi's Counsel regarding the alleged January 2011 Cosmos Club Meeting. Relatedly, Defendant makes the new and erroneous claim that hearsay evidence is not considered on a motion to dismiss. (Def. Reply at 5-7.) Plaintiff requests the opportunity to respond.

3. For the first time on reply, Defendant infers that the Cosmos Club meeting referenced by Defendant's Declarants was the "one and only Cosmos Club event" (Def. Reply at 7.) Defendant is not permitted any inferences on a motion to dismiss and Plaintiff should have the opportunity to respond to any newly requested inferences.

4. Defendant addresses for the first time on reply Plaintiff's pattern or practice assertions in her Complaint and now argues (incorrectly) that this evidence is not relevant (Def. Reply at 9-10.) Plaintiff's proposed Surreply provides legal authority that counters Defendant's arguments.

5. Further, Defendant's Reply repeatedly and erroneously asks the Court to infer that Ms. Calobrisi "concedes" points in Defendant's favor. (*See, e.g,* Def. Reply at 3, 5, 8, 9.) Plaintiff should be able to demonstrate how those improperly requested inferences are not concessions.

Given Defendant's new and incorrect arguments, as well as the significance of Defendant's improperly requested inferences, Plaintiff respectfully requests the opportunity to respond. Moreover, Plaintiff submits that her Surreply would aid the court in its review of Defendant's points.

For these reasons and any others the Court may find, Plaintiff respectfully requests that the Court grant her Motion to file Surreply.

Respectfully submitted,

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/s/ *Cedar P. Carlton*

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